

September 27, 2005

David Reid
Greenbelt Alliance
[Address Redacted]
Walnut Creek, CA 94596

**Re: Your Request for Advice
Our File No. A-05-191**

Dear Mr. Reid:

This letter is in response to your request for advice on behalf of city council member Michael Kee regarding the campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

May Pittsburg city councilmember, Michael Kee, serve as assistant treasurer for a general purpose recipient committee that will exist to support or oppose ballot measures on land development issues in Contra Costa County?

CONCLUSION

As long as the proposed committee does not support or oppose candidates, there are no restrictions on city councilmember Kee's involvement with the committee; he may act as the committee's assistant treasurer.

FACTS

The Greenbelt Alliance intends to form a committee to oppose ballot measures in Pittsburg and Antioch, California. In our telephone conversation of September 16, 2005, you noted that the committee plans to continue to support or oppose ballot measures on land development issues in Contra Costa County as they arise and will not terminate at the end of this current campaign.

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

While your letter asks whether city councilmember Kee may be named the treasurer of the committee, believing that this might be questionable under the Act, you amended your question to ask whether he may serve as the committee's assistant treasurer. Mr. Kee believes he is not allowed to participate in strategizing for the committee nor be involved in the day-to-day operation of the committee. However, he did sign the ballot argument for the measure in Pittsburgh.

ANALYSIS

Section 82013(a) defines a committee as "any person or combination of persons who directly or indirectly ... [r]eceive contributions totaling one thousand dollars (\$1,000) or more in a calendar year." Since your committee will not be primarily formed to support a single measure or "two or more measures being voted upon in the same city, county, multicounty, or state election," pursuant to section 82047.5, it will qualify as a general purpose committee. (Section 82027.5.) Section 82027.5(c) defines a county general purpose committee as:

"...a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county."

The Commission has determined that a candidate² may control a ballot measure committee (*Karpel* Advice Letter, No. A-93-356 and *Olson* Advice Letter, No. A-89-363), as long as the committee does not make contributions to support or oppose candidates, including the candidate controlling the ballot measure committee. (*Weems* Advice Letter, No. A-91-448.)³ As long as Mr. Kee remains a candidate, as defined by section 82007, if his activity meets the standards of a controlling candidate, the proposed ballot measure committee will be considered controlled by him. However, if Mr. Kee's activity with the committee does not meet the definition of a controlling candidate, the committee will not be considered controlled by him. We do not have any information suggesting that councilmember Kee would limit his activities to such an extent that he would not be considered a "controlling" candidate, and for purposes of this letter, we therefore assume that Mr. Kee will control the committee.

Section 82007 states, in pertinent part, that "[a]n individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is

² The term "candidate" includes those who hold an elected office. (Sections 82007, 84214; Regulation 18404(d).)

³ Under the Act, a candidate "controls" a committee whenever the candidate or his or her agent has a "significant influence on the actions or decisions of the committee." (Section 82016.) For example, we have advised that when a candidate is a voting member of a committee's leadership, the candidate is presumed to be exerting significant influence on the committee. (*Ferguson* Advice Letter, No. A-86-044.) In contrast, we have also advised that a committee does not become a "controlled committee" simply by virtue of a candidate or officeholder acting as treasurer. (*Lacy* Advice Letter, No. I-03-076.)

terminated pursuant to Section 84214.” Thus, when Mr. Kee terminates his status as a candidate by leaving office and terminating his campaign committee, then the proposed ballot measure committee would no longer be considered a committee controlled by a candidate, namely, Mr. Kee. (*Bagatelos* Advice Letter, No. A-93-104.) At that time, the proposed committee would be required to file an amended Statement of Organization (Form 410) to reflect that change.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel

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